LINCOLN OFFICE
SUITE 500
301 SOUTH 13TH STREET
LINCOLN, NEBRASKA 68508-2578
TELEPHONE 402-437-8500
FAX 402-437-8558

WOODS & AITKEN
L L P

DENVER OFFICE
SUITE 525
8055 EAST TUFTS AVENUE
DENVER, COLORADO 80237-2835
TELEPHONE 303-606-6700
FAX 303-606-6701

OMAHA OFFICE
SUITE 525
10250 REGENCY CIRCLE
OMAHA, NEBRASKA 68114-3754
TELEPHONE 402-898-7400
FAX 402-898-7401

THOMAS J. MOORMAN
DIRECT: (202) 944-9502
EMAIL: TMOORMAN@WOODSAITKEN.COM
WWW.WOODSAITKEN.COM
ADMITTED TO PRACTICE ONLY IN THE DISTRICT OF COLUMBIA

PLEASE RESPOND TO WASHINGTON ADDRESS

WASHINGTON OFFICE
SUITE 310
5151 WISCONSIN AVENUE, N.W.
WASHINGTON, D.C. 20016-4124
TELEPHONE 202-944-9500
FAX 202-944-9501

March 5, 2014

Filed Via ECFS

Notice of Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554

Re: WC Docket No. 10-90 and WC Docket No. 05-337: Submission of Notice of Ex Parte Presentation

Dear Ms. Dortch:

Pursuant to 47 C.F.R. §1.1206, the Nebraska Rural Independent Companies ("NRIC")[1] file this written ex parte in the above noticed dockets to provide further analysis for the Wireline Competition Bureau's ("Bureau") consideration as it continues its deliberations in finalizing the Connect America Model ("CAM") for determining Connect America Fund ("CAF") Phase 2 support in areas served by price cap ("PC") carriers.

NRIC has participated previously in the price cap CAM proceedings,[2] and does so again in this ex parte because its member companies and the rural Nebraska customers they serve may

[1] The NRIC companies are: Arlington Telephone Company, The Blair Telephone Company, Cambridge Telephone Company, Clarks Telecommunications Co., Consolidated Telephone Company, Consolidated Telco, Inc., Consolidated Telecom, Inc., The Curtis Telephone Company, Eastern Nebraska Telephone Company, Great Plains Communications, Inc., Hamilton Telephone Company, Hartington Telecommunications Co., Inc., Hershey Cooperative Telephone Co., K. & M. Telephone Company, Inc., The Nebraska Central Telephone Company, Northeast Nebraska Telephone Company, Rock County Telephone Company, Stanton Telecom Inc., and Three River Telco.

[2] NRIC has filed numerous ex partes in WC Docket No. 10-90 including submissions filed on November 13, 2013, October 28, 2013, September 6, 2013, August 30, 2013, July 30, 2013 and June 6, 2013. In addition, NRIC participated in the Commission's efforts to address potential incentives for interstate rate-of-return ("RoR") carriers, like each of the NRIC companies, to elect PC regulation and/or federal USF disbursements pursuant to the CAM. *See* Comments of

be impacted either directly or indirectly by the ultimate funding threshold levels for the PC CAM. Universal service support should be used wisely and consistently with statutory mandates.[3] Further, based on the supposition that revenues are, and should be, related to costs and given the FCC-imposed budget constraints for PC high-cost support, universal service support should not be unjustly directed toward areas that are comparatively lower cost and where a business case can be made for deploying broadband without the need for support.

The Funding Threshold Should be Increased to Reflect Business Revenues, Not Just Residential Revenues as is Currently the Case

Specifically, as will be explained further in this letter, NRIC believes the current funding thresholds utilized by the Bureau in the illustrative results[4] are unjustifiably low for PC areas. Current illustrative runs rely on thresholds that do not take into account any business revenues that carriers receive for voice and data (*i.e.,* broadband) services. To address this issue, NRIC recommends that the Bureau increase the funding thresholds for PC carriers in the final CAM order to adequately represent the total revenues that can be received from all customers (small business and residential). This change will ensure that distribution of CAF Phase 2 support is not unreasonably skewed to lower-cost locations that do not need support in order to attract network improvements to bring broadband services to those locations. In addition, this change will reflect the fact that the CAM establishes the costs to construct a network to all locations

---

the Nebraska Rural Independent Companies in Response to May 16, 2013 Public Notice, WC Docket No. 10-90, filed June 17, 2013 (the "*NRIC May 16th Public Notice Comments*").

[3] *See* 47 U.S.C. § 254(b)(3). Section 254(b)(3) states that

> Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

Id.

[4] The latest illustrative results used funding thresholds of $48 and $52 per month. *See Wireline Competition Bureau Releases New and Improved Illustrative Results for Connect America Cost Model Version 4.0 and Updated Methodology Documentation, Public Notice*, WC Docket No. 10-90, DA 13-2414, released December 18, 2013 ("*December 18th CAM Illustrative Public Notice*") at 2.

within a census block,[5] thus allowing the Federal Communications Commission ("Commission" or the "FCC") to better match the CAM's cost determination with the revenues derived from all of those locations. And, in doing so, the FCC should then be better able to ensure that the limited funds associated with the federal Universal Service Fund ("USF") available to PC carriers will be used to fund network deployments in areas truly needing those federal USF dollars. Finally, proper funding thresholds will also limit the impacts of the Alternative Technology Threshold ("ATT"), above which the Commission has suggested that broadband would only be funded from the Remote Area Fund ("RAF") portion of the federal USF program.[6]

The FCC Should Adopt a "No Back-Sliding" Policy

NRIC companies serve some of the highest-cost locations in the nation and have deployed broadband to many of those locations, the costs of which exceed the ATT addressed in previous published results of the PC CAM. Since the level to be set for the ATT is a function of both the budget and the lower threshold, NRIC remains concerned that an ATT set too low may jeopardize funding for infrastructure already deployed were a RoR-regulated carrier to opt into model-based support.[7]

To remedy this situation, the Bureau should declare a policy that avoids "back-sliding" in cases where customers are already served with broadband that meets or exceeds the FCC's minimum standards. Under such a policy, customer locations that have terrestrial-based broadband service at or above FCC-established standards but where the costs to serve or upgrade those customers are at or above the ATT would continue to be funded through the CAF, rather than through the RAF. These customers should not be relegated to alternative technology platforms that are not as robust as wireline-based broadband networks when superior terrestrial service is already in place.

NRIC respectfully submits that it is inconsistent with the public interest to defund any customer location. In particular, when investments made to provide these services were not

---

[5] *See* Model Methodology, CACM Version 4.0, revised 12-11-13 ("*12-11-13 CAM Model Methodology*") at 5, publicly available at -- http://www.fcc.gov/encyclopedia/price-cap-resources -- under the title "Connect America Cost Model Methodology (12/18/13)".

[6] *See In the Matter of Connect America Fund, et al. Report and Order and Further Notice of Proposed Rulemaking*, WC Docket No. 10-90, et al., FCC 11-161, 26 FCC Rcd 17663 (2011) ("*USF/ICC Transformation Order*"), *appeal pending,* at ¶¶164-170.

[7] *See, e.g. NRIC May 16th Public Notice Comments* at 8-10.

contrary to Commission rules and regulations, including (at least currently) the quantile regression caps ordered for RoR companies for High Cost Loop Support, it is inappropriate to discontinue universal service support now.[8] If back-sliding was not avoided, these customers would be harmed given "the new information networks are the new economy",[9] a result contrary to the FCC's stated goal to "ensure universal availability of modern networks capable of providing voice and broadband service to homes, businesses, and community anchor institutions."[10]

Recent CAM Results Indicate Funding Would Flow to Areas that Do Not Need It

In addition, if the Bureau sets the PC CAM funding threshold at too low a level, NRIC continues to be concerned that CAF funding will be provided to locations for which universal service support is not required to create a broadband business case. If the total revenues derived by all end users of the network are not addressed in the funding threshold, it is questionable how one can determine whether the CAF dollars being proposed to be disbursed are those that are actually necessary to create the incentive for the deployment, operation and maintenance of

---

[8] *See USF/ICC Transformation Order*, Appendix H; *see also generally In the Matter of Connect America Fund, High-Cost Universal Service Support, Order,* WC Docket Nos. 10-90 and 05-337, DA 12-646, released April 25, 2012; *In the Matter of Connect America Fund, High-Cost Universal Service Support, Sixth Order on Reconsideration and Memorandum Opinion and Order*, WC Docket Nos. 10-90 and 05-337, FCC 13-16, released February 27, 2013.

[9] *See* Prepared Remarks of FCC Chairman Wheeler, The Ohio State University, Columbus Ohio, December 2, 2013 (explaining how critical broadband networks are to all aspects of our society). The following quote is taken from these remarks.

> At the heart of these changes is this: the new information networks are the new economy. Earlier networks enabled ancillary economic activities. The railroad, for instance, hauled coal that fired the furnaces of industry. In contrast, what today's new networks haul isn't an input to a product, it is the product itself. Our growth industries are today based on the exchange and use of digital information. As such, information networks aren't ancillary; they are integral.
>
> How we connect with friends and family, how our homes use energy; the efficiency of our transportation network; how we elect our public leaders and engage with government; all are impacted by our new networks. . . .

Id. at 2

[10] *See USF/ICC Transformation Order* at ¶17.

broadband networks versus whether the total revenues being received are already sufficient for a carrier to undertake these actions. Moreover, NRIC is concerned that this situation will then result in a challenge process[11] that will unnecessarily encompass too many areas, be overly complex and waste resources for customers, and eligible carriers and the Commission itself.

To place the concerns expressed above in context, NRIC and the American Cable Association ("ACA") have previously documented that prior CAM results indicated funding would be directed to certain urban areas that do not require CAF funding. These results, in turn, required the need for more rigorous review of the CAM itself.[12] Although at least one party contends that such results are anomalies and can be addressed on an individual case basis,[13] questionable funding to areas continues to exist even under the most recent maps issued by the FCC arising from the CAM Version 4.0 illustrative results, which still indicate apparent funding for discrete areas within Washington D.C.[14] While some may suggest that this example is an anomaly that can be addressed on an individual basis, NRIC respectfully submits that it is evidence of an underlying model problem – scarce universal service support flowing to areas that should not be receiving support in order for broadband deployment to occur.

NRIC believes that the cause of the funding abnormality could logically be driven in part by a funding threshold set at too low a level. To be sure, the cost module of CAM 4.0 generates a cost per unit in each census block which includes the total cost of the network for both business

---

[11] *See generally In the Matter of Connect America Fund, Report and Order*, WC Docket No. 10-90, DA 13-1113, released May 16, 2013.

[12] For example, ACA's analysis of CAM Version 3.1.4 indicated that more than $33 million in annual support was allocated to the 10 most populous Core Based Statistical Areas in both solution sets, including more than "$150,000 in annual funding for census block groups in urban areas that contain the following landmarks": Logan Airport in Boston; George Bush Park in Houston; Golden Gate Park in San Francisco; Long Beach Shipyard in Los Angeles; Arlington National Cemetery in Arlington, Virginia; and Hudson River Greenway in New York City. *See* American Cable Association (ACA) *Ex Parte* Filing on Connect America Cost Model, WC Docket No. 10-90, filed August 19, 2013 (the "*August 19th ACA Ex Parte*") at 3.

[13] *See* Ex Parte of US Telecom, WC Docket No. 10-90, dated October 21, 2013 at 2.

[14] *See Wireline Competition Bureau Releases Maps of Illustrative Results for Connect America Cost Model Version 4.0, Public Notice*, DA 14-153, released February 6, 2014; *see also* FCC - Connect America Fund Phase II – CAM v4.0 Illustrative Map with Funding Threshold of $52 (http://www.fcc.gov/maps/fcc-connect-america-fund-phase-ii-cam-v40-illustrative-map-funding-threshold-52).

and residential locations. When determining the need for funding, the total cost should be compared to the Average Revenue per Unit ("ARPU") that is expected for that census block, and if the cost is greater than the expected ARPU the area should receive funding. NRIC believes it would be methodologically inappropriate not to consider the revenue from all of those locations. Put another way, since the CAM considers the costs of network to all locations within an area – residences and businesses alike -- it would be inappropriate for the FCC to establish a funding threshold that only considers residential revenues.[15]

Accordingly, NRIC respectfully submits that any failure to consider business revenues in the establishment of the funding threshold is a flaw in the implementation of the CAM support module that needs to be rectified because that flaw would divert funding from costly areas that truly require support. NRIC respectfully suggests that this problem can and should be corrected with the funding threshold in the decision establishing the CAM model and that the correction need not result in a major disruption to the CAM roll out in PC carrier areas.

NRIC believes that the funding threshold for the final CAM distribution of Phase 2 CAF in price cap areas should be set at the *non-promotional level of revenues that can be expected from **all** services for voice and broadband.* Furthermore, CAF support *should not be provided for all costs above the funding threshold* that is ultimately selected since, if all costs above that threshold are to be reimbursed, many carriers would receive double recovery – revenues from customers and revenues via support from the CAF – based on the fact that the funding threshold is an average of revenues. Put another way, if the actual revenue of a PC carrier within a given area is above the revenue threshold, the revenue in excess of the average would represent double recovery to the carrier. Such a result is unfair to customers in higher-cost areas who should be the beneficiaries of investments made possible by universal service policies, and likewise is an unfair windfall to carriers serving low-cost areas that can already support broadband absent universal service support.

The Funding Threshold Can Be Adjusted to Include Business Revenues Through the Use of Statistics

Unquestionably, considering only residential revenues generated in each census block underestimates the revenues that will be generated from current and new broadband deployment and, therefore, logically, would overestimate the number of areas where there is no business case

[15] While additional analysis would be required, logic suggests that the failure to reflect business revenues in the analysis could be one of the reasons why funding is being directed to areas that have lucrative business locations but few, if any, residential locations, as is the case with the urban areas identified in the *August 19th ACA Ex Parte*.

for deploying broadband. At the same time, it is also only logical that when a company decides to invest in a particular area it considers the total potential revenue to be derived from all customers, not just the revenues from residential customers. This result is in conflict with the design of CAM, as noted above, which creates costs to support infrastructure that serves both residential and business locations.[16] If the Bureau does not include within its threshold analysis the business revenues in an area and the significant contribution that carriers receive from business customers, that oversight would undermine the validity of any Bureau-established funding threshold. Given the widespread presence of business customers generally within PC carrier service areas, this situation would be a major oversight in universal service policy.

Recognizing the need to ensure that business voice and broadband revenue are included in the revenue threshold calculation, NRIC offers the following recommendations.

Since larger numbers of businesses are more apt to be located in areas of high population density, a formula based on an area's population density can be used to estimate total revenues, including both business and residential revenues. Under this formula, the more densely populated an area, the more businesses would be located within the area; thus, more business revenue would be derived from that area. As a result, the more densely an area is populated, the higher the revenue per customer, or ARPU, would be for that area. Because the ARPU is higher in more densely populated areas, the funding threshold should similarly be higher. While NRIC recognizes that this process would create various tiers of funding threshold levels, that result should only require a reasonable additional amount of calculations by the Bureau and would otherwise tailor the revenue threshold more closely to the census block area being addressed.[17]

To test whether such an equation could be developed, NRIC analyzed the relationship between voice service revenues and population density using publicly available data for Nebraska. Due to the nature of the publicly available data, this analysis was performed at the county level. Basic local service revenues for residential customers were estimated by multiplying the number of households by an assumed rate of $19.25, while revenues for

---

[16] "CACM estimates the cost to provide and broadband-capable network connections to all locations in the country." *12-11-13 CAM Model Methodology* at 5; *see also* n.5, *supra*.

[17] NRIC respectfully suggests that such bifurcation of funding thresholds could also be applied to efforts to address CAM deployment in RoR areas arising from the resolution of the issues being addressed in the *May 16th Public Notice*, since the distribution of business customers in RoR areas also varies widely.

businesses were calculated by multiplying the number of business establishments[18] by what NRIC believes to be a conservative assumed rate of $27.50 for basic local service revenues for business. The sum of residential and business revenues yielded the total revenues per month at the county level. This estimated total revenue was regressed against population density for each county. The resulting simple regression equation,[19] with an R-squared statistic of 0.89, indicates a strong relationship between population density and total revenues. In this case, 89% of the variation in voice revenues can be explained by population density alone. If the FCC were to consider all the voice and broadband revenues to be derived from businesses, not just basic voice service revenue, the funding thresholds would necessarily be higher.

While this simple regression analysis was performed using only Nebraska counties and voice service revenues, NRIC respectfully suggests that the methodology can be extended to include all business revenues using Census data. Further, since business revenues depend on the size of the business, the revenue estimates could be further refined by using different assumed business rates based on the businesses' employment levels.[20]

As noted above, NRIC's analysis used readily available county level data. The FCC, in turn, could investigate the availability of similar data by census block that would allow the FCC to derive an equation that could be used to estimate total revenues (both business and residential) for each census block in the country. In this way, the regression equation estimates could be used to establish census block specific funding thresholds. Either census block-specific funding thresholds or county-specific funding thresholds could also be aggregated to establish company-specific funding thresholds.

NRIC appreciates that the method just discussed could be viewed as complicated. Although NRIC prefers its regression approach, NRIC also notes that a simplified version of the method described above could be undertaken. Specifically, instead of using the regression equation to calculate individually tailored funding thresholds for each census block or service area, the results of the regression analysis could be used to establish nationwide funding threshold categories.

---

[18] United States Census Bureau County Business Patterns ("CBP database"); *See* www.census.gov/econ/cbp/ (Retrieved February 18, 2014). 2011 data was released in April of 2013 and was the most recent data available.

[19] Total Monthly Revenue = 48,718 + 2,734 * Household Density

[20] The number of businesses at various levels of employment is available from the CBP database.

At a minimum, NRIC respectfully submits that the CAM distribution model should be designed to include a funding threshold adjustment factor that accounts for the revenue contribution of businesses in the densely populated (by either households or businesses) areas.

Conclusion

NRIC urges the Bureau to implement the reasonable, policy-based recommendations in this ex parte by including business revenues when funding thresholds are established for PC carrier areas and adopting a "no backsliding" policy for the funding of already-served customer locations. By doing so, NRIC respectfully submits that the Bureau will ensure that limited universal service dollars will be available to areas that need support, currently served areas will continue to receive high-quality terrestrial broadband service, and that CAF recipient companies are not over-compensated for providing broadband services to areas where support is not needed.

Please contact the undersigned should you have any questions.

Respectfully submitted,

Thomas J. Moorman

Thomas J. Moorman